

**UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

**GUIDELINES FOR CIVIL AND CRIMINAL PROCEEDINGS
BEFORE JUDGE JULIE A. ROBINSON
February 2010**

Contacting Chambers

Counsel should never contact chambers for purposes of seeking relief; counsel should seek relief by filing a motion or other appropriate pleading. Should counsel need to contact chambers for other purposes, counsel should send an email to Judge Robinson's courtroom deputy, Pam Patton, at KSD_Robinson_Chambers@ksd.uscourts.gov, and copy all other counsel on the email, except in those rare instances when ex parte contact with the court is permissible under the law. Except in emergency situations, counsel should refrain from contacting chambers by telephone.

Motions for Temporary Restraining Orders and/or Preliminary Injunctions

Counsel are reminded that D. Kan. Rule 65.1 governs requests for Temporary Restraining Orders (TRO). If a motion seeks a TRO or Preliminary Injunction in the alternative, the Court will treat the request as one for Preliminary Injunction, unless movant complies with the requirements of Fed. R. Civ. P. 65(b). Counsel for the moving party should contact chambers via email to request a hearing, with a copy of the request to opposing counsel, if an appearance has been entered.

Place of Trial

Effective March 1, 2010, the United States District Court for the District of Kansas assigns civil cases to the district and magistrate judges on a district-wide draw, thus randomly assigning to the judges, cases filed in the Kansas City, Wichita and Topeka divisions, without regard to the judge's duty station. This district wide random assignment of cases does not effect any change in the place of trial, nor any change in D. Kan. Rule 40.2, which governs the place of *trial*. Generally, the assigned judge will travel to the place of trial that the parties have designated or to another place of trial which the judge has determined to be appropriate under Rule 40.2 and case law.

Cases that the parties have designated for trial in the Topeka division

Trials in cases filed in the Topeka division and/or designated by the parties for trial in Topeka shall be conducted in **Judge Robinson's courtroom in the Topeka Division, Courtroom 401, Frank Carlson Federal Building, 444 S.E. Quincy, Topeka, Kansas 66683.**

Cases that the parties have designated for trial in either the Kansas City or Wichita divisions

Trials in cases filed in the Kansas City or Wichita divisions and/or designated by the parties for trial in either division shall be conducted in courtrooms in those respective divisions. On or

before the day of trial, the Court will give the parties notice of the courtroom number in the respective courthouse in which their trial will be conducted.

Trailing Civil Trial Calendar

The Court sets all civil trials on a “trailing trial calendar.” The Court’s trailing trial calendar dates are posted on the Court’s website. Each calendar lasts from 8 to 12 weeks, as needed, or until the Court’s next scheduled trailing trial calendar. For example, in the year 2010, the Court’s trailing trial calendars are scheduled for: January 26, April 5, June 15 and September 15. Thus, the January 26, 2010 trailing trial calendar lasts from January 26 to April 4, 2010. Cases set on the January 26, 2010 calendar may be tried at any time during the duration of that calendar. Typically, unless there are a number of cases that go to trial, or last for a several week duration, the parties can expect to have their case called for trial on the first day of the trailing civil trial calendar or within a week or two thereafter. **Counsel shall immediately advise the Court of any revisions to their estimated trial time.**

Motions for continuance are not favorably considered because the Court’s trailing calendars last for 8 to 12 weeks; the Court will endeavor to set a firm trial date around the parties’ scheduling conflicts if at all possible.

60-day trial notice

Cases are set for trial on a trailing trial calendar at the time of the parties’ scheduling conference with the magistrate judge. The parties will receive a 60-day trial notice approximately 60 days before the trailing trial calendar begins that will list all of the remaining cases set for that date. The notice will also provide the names and contact information for counsel involved in the other cases on the trailing calendar.

30-day trial notice- firm trial date, telephonic status conference, hearing on pending motions

The parties will also receive a 30-day trial notice approximately 30 days before the trailing trial calendar begins. In this 30-day notice, the parties will be given their firm trial date. Thus, for example, if the case is set on a trailing trial calendar that commences January 26, 2010, the parties should not expect to receive a firm trial date prior to December 26, 2009. In the 30 day trial notice, the parties will also be given notice of: (1) a telephonic status conference the Court will conduct with the parties, usually 1-2 weeks before their firm trial date; and (2) the hearing on pending motions relating to presentation of evidence, including any pending *Daubert* and limine motions. If a Daubert hearing is necessary earlier than 30 days before trial, the Court will contact counsel.

The Court’s ability to provide you with a firm trial date prior to the first day of the trial calendar is dependent upon you staying in touch with the other parties on your trial calendar and with the Court so that the Court has an accurate estimate of trial length and an idea of which cases will actually proceed to trial. The Court’s ability to provide the parties with a firm trial date is also dependent on the parties’ early notification of potential and/or actual settlement of their case.

In many cases, the parties will have **pending summary judgment motions**. The Court does not conduct hearings on summary judgment motions. The Court endeavors to decide such motions no later than 30 days before the first day of the trailing trial calendar. To the extent the parties have obtained extensions of time to file motions, responses or replies, this impedes the Court's ability to render a decision within that time frame. Please do not contact chambers to inquire as to when you will receive a ruling.

Deadlines for Submissions due before Civil Trials

The **deadlines in the Standard Pretrial Order are hereby modified by this Court**. All cases on a trailing trial calendar will have the **same deadlines** for submission of: final witness and exhibit disclosures and objections thereto; marking of exhibits, designations and counter-designations of deposition testimony and objections thereto; limine motions and responses thereto; proposed jury instructions and objections thereto; joint statement of case for use during voir dire; and preliminary sets of proposed findings of fact and conclusions of law (in bench trials only). **These pretrial deadlines are firm and mandatory. Motions for extension of the deadlines for pre-trial submissions are not favorably considered.**

Trailing Trial Calendar and Submission Deadlines Posted on Court Website

Judge Robinson's trailing trial calendar dates for the current year and the next year, as well as the above described deadlines for each trailing trial calendar are posted on the Court's website at www.ksd.uscourts.gov, under the section for Judge Robinson's chambers. **The parties are expected to check the trial notice and/or the Court's website for the firm deadlines associated with their trailing trial calendar date and abide by those deadlines rather than those set in the Pretrial Order.**

By way of illustration: below is the table of deadlines and settings for those cases that were set on the April 5, 2010 trailing trial calendar.

Pretrial Deadlines for Cases on the April 5, 2010 Civil Trial Calendar

SUMMARY OF DEADLINES AND SETTINGS	
Event	Deadline/Setting
Trial	April 5, 2010
Final witness & exhibit disclosures	March 15, 2010
Objections to final witness & exhibit disclosures	March 22, 2010
Exhibits marked	April 5, 2010
Deposition testimony designated	March 15, 2010

Event	Deadline/Setting
Objections to deposition designations, along with any counter-designations	March 22, 2010
Objections to counter-designations of deposition testimony	March 26, 2010
Submission of disputes concerning designated deposition testimony	March 29, 2010
Motions in limine	March 22, 2010
Briefs in opposition to motions in limine	March 29, 2010
Proposed jury instructions	March 26, 2010
Objections to proposed jury instructions	March 29, 2010
Preliminary sets of proposed findings of fact and conclusions of law in bench trials	March 29, 2010
Proposed voir dire questions	March 26, 2010
Objections to proposed voir dire questions	March 29, 2010
Joint Statement of case for use during voir dire	March 26, 2010

Marking Exhibits in Civil Cases prior to trial

All exhibits must be marked and exchanged on or before the first day of the trailing trial calendar. If the parties desire to mark the exhibits in the presence of the courtroom deputy, the parties must make arrangements by contacting Pam Patton, Courtroom Deputy/Judicial Assistant for Judge Robinson, at KSD_Robinson_Chambers@ksd.uscourts.gov.

Marking of Exhibits in Criminal Cases prior to trial

All exhibits must be marked and exchanged at least seven (7) calendar days before the first day of the firm trial setting in criminal cases. If a marking session is requested to be conducted by the courtroom deputy, counsel are directed to coordinate a mutually convenient time, then contact Pam Patton, Courtroom Deputy/Judicial Assistant for Judge Robinson, KSD_Robinson_Chambers@ksd.uscourts.gov.

Numbering of Exhibits in Civil and Criminal Cases prior to trial

Exhibits shall be numbered as follows: Nos. 1-400 are reserved for the plaintiff(s); Nos. 401-800 are reserved for defendants(s); and, Nos. 801 and higher are reserved for a third party. Joint Exhibits shall be identified alphabetically. Counsel shall prepare and use their own exhibit

stickers, but said exhibit sticker shall identify either “Plaintiff’s Exhibit” or “Defendant’s Exhibit” or “Joint Exhibit,” the exhibit number, and the case number. If the parties anticipate that their exhibits will exceed the number allotted, please contact the courtroom deputy for further instructions before proceeding.

Final Witness and Exhibit Lists

Final witness and exhibit lists are to be limited to those witnesses the parties intend to call and exhibits they intend to use at trial. They are not to be comprehensive lists of all persons who have knowledge of some aspect of the case and all documents and other items in the parties’ possession or which were produced in discovery.

If a previously disclosed witness or document is not listed in the final witness or exhibit list, but that exhibit or witness becomes important to some issue in the case, the Court will not penalize the moving party if that party acted in good faith in generating its witness and exhibit lists. Parties must confer and agree on what exhibits will be admitted without objection and be prepared to offer those exhibits on the first day of trial to facilitate efficient use of time. The parties should provide one list of the agreed exhibits to the court deputy on the first day of trial.

Providing Copies of Exhibits and Exhibit Form to Court in Civil and Criminal Cases prior to trial

Counsel shall provide a copy of all exhibits for Judge Robinson and an additional copy for the law clerk assigned to the case. These copies shall be marked, as noted above, and submitted in a 3-ring binder.

An exhibit list form can be found on the Court’s website, at www.ksd.uscourts.gov, under the section for Judge Robinson’s chambers. Counsel may use this form or one duplicating this format as long as all the information is contained in the duplicated form. Counsel shall provide three (3) copies of the exhibit list on the day of trial

Proposed Jury Instructions Submitted in Civil and Criminal Cases prior to trial

Proposed instructions in jury cases shall be submitted in compliance with Fed. R. Civ. P. 51 (Fed. R. Crim. P. 30 in criminal cases) and D. Kan. R. 51.1. Under D. Kan. R. 51.1, the parties have the joint responsibility to attempt to submit one agreed set of final instructions that specifically focuses on the parties’ factual contentions, the controverted essential elements of any claims or defenses, damages, and any other instructions unique to this case. **This requirement is not optional** and must be completed according to the Court’s pretrial deadlines. In civil cases, this deadline is set by the Court in its 60-day trial notice and on its website. In criminal cases, this deadline is set by the Court in its General Order of Discovery and Scheduling.

In the event of disagreement, each party shall submit its own proposed instructions with a **brief** explanation, **including legal authority** as to why its proposed instruction is appropriate, or why

its opponent's proposed instruction is inappropriate, or both. This explanation shall not exceed one page in length. Counsel is discouraged from relying on case law language in its proposed instructions. The Court expects counsel to point to legal authority for the proposed instruction itself, not for the point of law stated in the instruction.

In civil cases, you will be sent Judge Robinson's standard or stock instructions in the 60 day trial notice, (e.g., instructions concerning the jury's deliberations, the evaluation of witnesses' credibility, etc.); it is not necessary to submit such proposed jury instructions to the Court. These instructions are also available on the Court's website. The Court's standard or stock instructions do not include **claim-specific** instructions; it is the **parties' responsibility** to propose such instructions.

To be considered timely filed the parties in civil and criminal cases must do two things by the filing deadlines: (1) electronically file the proposed instructions; and (2) submit the proposed instructions (formatted in WordPerfect 9.0, or an earlier version) as an attachment to an e-mail sent to KSD_Robinson_Chambers@ksd.uscourts.gov.

Conduct and Decorum in Trial and Hearings

Counsel shall stand at all times when addressing the Court. Counsel shall also stand when the jury enters and exits and when the Court enters and exits.

If counsel wishes to approach the bench, counsel shall request permission to do so, and approach only when such permission is granted.

When the Court has ruled on a matter, counsel shall not continue making arguments about the objection or display behavior that is disrespectful to the Court and the administration of trial.

Counsel shall refrain from commenting on the Court's rulings, witness testimony, opposing counsel, or the evidence, as such editorialization and verbal commentary is always inappropriate.

Counsel and everyone seated at counsel's tables shall refrain from any behavior that will disrupt the flow of evidence or interrupt the jury's concentration. This includes snickering, laughing, or any other unprofessional behavior that could potentially distract the jury.

Soft drink cans or bottles, cups with logos, straws and food are not permitted in the courtroom. The Court provides cups for water. Boxes and briefcases should not be placed on counsel tables during the court session.

Only licensed attorneys and court interpreters presenting appropriate paperwork may bring cellular phones into the courthouse. Please review the Court's policy on electronic devices for more details.

Daily Trial Schedule

Depending on the length and complexity of the trial and press of other court business, the trial hours may vary. In some cases, the trial may run from 9 a.m. to 5 p.m. each day; in other cases the trial may run from 8:30 a.m. to 1:30 p.m. with a short break but no lunch break; other trials may have a combination of these eight- hour and five- hour days. In civil cases, the daily schedule will be discussed in the Court's telephonic status conference with the parties. In criminal cases the daily schedule will be discussed at the limine hearing or status conference on the first day of actual trial.

Jury Utilization, Objections, Bench Conferences, Witness Scheduling

The Court's goal is that the jury will hear as much uninterrupted testimony as possible each day of trial. The chief cause of trial delay is the bench conference, which interrupts the presentation of evidence to the jury. The Court hopes to hear and decide all legal issues without disrupting the continuity of trial.

Bench conferences will be kept to a minimum. Absent a compelling reason to do so immediately, records will be made during a recess or at the end of the day.

Matters to be discussed outside the presence of the jury will not be considered during the hours designated for trial. Any matters to be considered outside the presence of the jury should be scheduled for 8:30 a.m., or a recess during lunch, breaks, or after the conclusion of the day of trial, **with advance notice to the Court and all counsel**. If at all possible, anticipate and consult with opposing counsel about any concern before asking the Court for a conference.

Counsel shall not make narrative objections. Objections and responses should be abbreviated and direct, and not in the form of a sentence or longer. State only "objection" followed by the basis. Examples of objections include "hearsay," "leading," "Rule 404(b)," "privilege," and "argumentative." Response examples include "weight over admissibility," "foundational," "will connect up," "business records exception," and "goes to intent and motive."

In order to have sufficient time to anticipate legal issues, **witnesses and exhibits expected to be used in the trial should be disclosed** to opposing counsel no later than 5:30 p.m. the day before. This will ensure that counsel has the opportunity to raise an issue the next day either before the jury is seated or during one of the recesses. This obligation to confer will not operate to preclude counsel from calling witnesses in a different order or more or fewer witnesses than those anticipated, so long as counsel make a good faith effort to disclose the witnesses they reasonably anticipate calling the next day.

Counsel must ensure that sufficient witnesses are present to guarantee a full day of testimony. There should be no dead time caused by running out of witnesses. It is preferable to inconvenience a witness by having them return the following day, rather than to send an entire jury home due to lack of witnesses.

Court Reporter

Give your business card to the court reporter before the proceeding begins. If you or your witness will be using technical, medical or unusual terms, please provide a glossary of those terms to the Court and the court reporter prior to trial.

Court Uses Struck Method of Jury Selection

In **civil trials**, the Court will instruct the clerk to place fourteen (14) persons in the jury box. After voir dire and passing on all challenges for cause, plaintiff(s) will be allowed three (3) peremptory challenges and the defendant(s) will be allowed three (3) peremptory challenges, unless otherwise ordered by the Court. The peremptory challenges will be exercised in writing, in alternating fashion beginning with the plaintiff. Most civil jury trials will be tried to a jury of eight (8).

In **criminal trials**, the Court will instruct the clerk to place thirty-two (32) persons in the jury box. After voir dire and passing on all challenges for cause, the government will be allowed six (6) peremptory challenges and the defendant(s) will be allowed a total of ten (10) peremptory challenges; and the government will be allowed one (1) peremptory challenge of the alternates and the defendant(s) will be allowed a total of one (1) peremptory challenge of the alternates, unless otherwise ordered by the Court. The peremptory challenges will be exercised in writing, in alternating fashion beginning with the government. In most criminal trials, the Court will seat two alternates, in addition to the jury of twelve.

Voir Dire

A listing of prospective jurors will be available to counsel one week in advance of the trial. This list will include: name, town of residence, and occupation. No further information will be provided.

In civil cases only, counsel shall prepare a **joint statement** in simple terms describing the nature of the case including the claims and defenses of the parties to be read by the Court during voir dire. This statement will be used to set the context of the trial for the jury. The statement of the case **should not exceed three pages**.

The Court will conduct a fairly extensive voir dire, asking questions about: prior jury service, knowledge of the case, knowledge of the people and parties involved in the case, prior and/or family involvement in litigation, occupation of prospective juror and of spouse, legal education or work experience, education or work experience in fields involved in the case.

The questions the Court propounds may be supplemented by questions asked by counsel. Each party is limited to thirty (30) total minutes of voir dire.

Counsel shall not argue the case, attempt to educate or indoctrinate, or pose questions about anticipated instructions or theories of law to the prospective jurors.

Opening Statements

In most cases, opening statements will be limited to twenty (20) minutes total per party.

Sequestered Witnesses

If a party invokes the rule for witness sequestration, counsel must assure that each of their witnesses understands that: (1) the witness may not discuss testimony which he or she expects to give or which he or she has given in this matter; (2) the witness may not discuss with another witness the testimony that any other witness has given or expects to give in this matter; (3) if any one attempts to discuss such testimony with the witness, the witness must advise counsel and/or notify the Court as soon as possible; and (4) the witness may discuss his or her testimony or anticipated testimony with counsel.

Depositions

Original depositions and interrogatories with answers will be filed in open court as they are offered. Counsel is required to provide the original deposition or any part of the deposition testimony that is read into evidence during trial. Please refer to D. Kan. Rule 32.1.

Examination of Witnesses

Pursuant to Local Rule 43.1(b) “only one attorney for each party may participate in the examination or cross-examination of a witness.” Counsel shall use the lectern, unless otherwise permitted by the Court. Counsel shall not greet witnesses and shall not use a witness’s first name. Permission to approach a witness during questioning is not necessary. If you intend to question a witness regarding a number of documents, please have all documents ready during your examination of that witness.

Admission, Use and Custody of Exhibits

Counsel shall maintain custody of the exhibits until they have been admitted into evidence. After admittance, the courtroom deputy will assume custody. Counsel shall also provide file folders marked, as noted above, to the courtroom deputy for the original exhibits. These file folders will be used to keep the exhibits in order throughout the trial as well as to make accessibility to exhibits quicker and easier for counsel and the Court. The courtroom deputy will maintain a master index for each party of all exhibits that have been identified, offered and admitted throughout the trial. Counsel or his/her staff may, and are encouraged to, check these lists as the trial progresses.

At the close of all evidence, the courtroom clerk will provide counsel a final listing of all admitted exhibits. At the conclusion of trial, counsel must remove all bulky, oversized, sensitive or dangerous materials admitted into evidence (D. Kan. Rule 79.3), by motion to withdraw. At the conclusion of trial, counsel shall be prepared to retrieve the copies of exhibits provided to the Judge and law clerk, unless otherwise advised by the courtroom deputy.

Equipment in Courtroom

For cases tried in Wichita or Kansas City, during its telephonic status conference, the Court will advise the parties of the equipment and amenities that will be available to them. For cases that are tried in Topeka, Judge Robinson's courtroom is equipped with an AMX Presentation System which includes a WolfVision Elmo system that displays documents, whether in paper form or computer-generated documents from your personal laptop. The system is equipped to play DVD and VHS recorded evidence. There are computer monitors located throughout the courtroom (Judge's bench, counsel tables, courtroom deputy/court reporter table, witness stand and plasma screen televisions for the jury box). This equipment is simple to use and training is available by contacting Pam Patton at KSD_Robinson_Chambers@ksd.uscourts.gov.

Jury Instruction Conference

The parties will participate in an informal instruction conference with the law clerk assigned to the case, **generally on the evening of the first day of trial**. At this time, the parties shall be prepared to discuss any and all objections to the jury instructions. The Court will not entertain objections to jury instructions that are not raised by the filing deadlines and/or at the informal conference. At the close of all evidence and after ruling on all appropriate motions, final arguments on proposed jury instructions will be heard by the Court. This formal instruction conference is not an opportunity for the parties to raise arguments that were not raised in either their filings or at the informal instruction conference.

Court Instructs Jury Before Closing Arguments

The Court will read the instructions to the jury before closing arguments by counsel. Thus, the parties are allowed to read and publish instructions to the jury during their closing arguments.

Closing Arguments

In most cases, closing arguments will be limited to thirty (30) minutes per party. Because the Court instructs before closing arguments, counsel may refer to, read or publish the jury instructions to the jury during closing argument.

Contact with Jurors

Once the jury has been sworn to try the case, each will be given a pin which reads JUROR. Counsel will make every effort to avoid any kind of contact with any member of the jury, innocent or otherwise. If such contact should occur, counsel is obligated to inform the Court immediately.

Counsel are reminded that D. Kan. Rule 47.1 governs communications with jurors after trial, and that absent order by the Court granted upon good cause shown, parties, counsel, or their agents or employees shall not examine or interview any juror, either orally or in writing.

5/2010

